

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI-DADE DIVISION**

ZAGG INC,

Case No.: 1:23-cv-20304-RKA

Plaintiff,

v.

MENACHEM MENDEL ICHILEVICI,
TX TRADING INC.,

Defendants,

and

DVG TRADE LLC,

Defendant/
Counterclaim-Plaintiff/
Third-Party Plaintiff,

v.

ZAGG INC,

Counterclaim-Defendant,

v.

SCREENYA, LLC, MERRIL LONGMORE,
And BRENDAN BUCKNER,

Third-Party Defendants.

**SCREENYA, LLC, MERRIL LONGMORE, AND BRENDAN BUCKNER'S
MOTION FOR EXTENSION OF TIME TO COMPLETE DISCOVERY**

Third-Party Defendants Screenya, LLC (“Screenya”), Merrill Longmore (“Longmore”), and Brendan Buckner (“Buckner,” and together with Screenya and Longmore, the “Third-Party Defendants”), by and through their undersigned counsel, respectfully move this Court to extend

the deadline for the parties to complete fact discovery.¹ As reason therefore, the Third-Party Defendants state as follows:

1. In the Amended Scheduling Order dated April 3, 2023 (the “Order”), the current deadline to complete fact and expert discovery is currently set for July 11, 2023 [ECF No. 29].

2. On March 31, 2023, Plaintiff ZAGG Inc (“ZAGG”) filed a Second Amended Complaint, naming two additional defendants, DVG Trade LLC (“DVG”) and Menachem Mendel Ichilevici. *See* ECF No. 26.

3. On April 7, 2023, the Court granted ZAGG’s consented-to for extension of time for the Defendants—TX Trading Inc., DVG, and Menachem Mendel Ichilevici (“Defendants”)—to answer the Second Amended Complaint, up to and included May 4, 2023 [ECF No. 33].

4. On May 4, 2023, Defendants filed their answer to ZAGG’s Second Amended Complaint, and DVG filed a Counterclaim and Third-Party Complaint, naming three additional third-party defendants, Screenya, Longmore, and Buckner [ECF No. 41].

5. On May 26, 2023, ZAGG and Screenya moved to dismiss DVG’s Counterclaim and Third-Party Complaint. As Buckner and Longmore were not served until May 23 and May 30, 2023, respectively, the individual defendants, now served, separately moved to join ZAGG and Screenya’s Motion to Dismiss [ECF No. 50] on June 13, 2023.

6. The close of discovery is currently less than thirty (30) days away.

7. Given the Third-Party Defendants’ pending motion to dismiss—premised, in part, on the Court’s lack of personal jurisdiction—Screenya, Longmore, and Buckner have yet to respond to DVG’s Counterclaim and Third-Party Complaint, set forth affirmative defenses thereto,

¹ This motion is filed without waiver of the Third-Party Defendants argument that the Third-Party Complaint [ECF No. 41] fails to state a claim upon which relief can be granted and that this Court lacks personal jurisdiction over Third-Party Defendants. This arguments are specifically reserved and pending before the Court.

and have not had the opportunity to file potential counterclaims and/or cross-claims or take the required discovery they would need to defend themselves should their dispositive motions be denied.

8. Accordingly, Screenya, Longmore, and Buckner respectfully request a ninety (90) day extension of the discovery schedule and trial deadline from the date of the Court's order on the Third-Party Defendants' Motion to Dismiss.

9. The requested extension is necessary to resolve the issue of personal jurisdiction over the Third-Party Defendants and, if necessary, permit the Third-Party Defendants to respond to the Third-Party Complaint, set forth their affirmative defenses, file potential counterclaims and/or cross-claims, and serve discovery related to the claims set forth in the Third-Party Complaint and their potential counterclaims and/or cross-claims.

10. This is the Third-Party Defendants' first request to extend the discovery schedule and trial date.

11. This extension will not prejudice any party and it is not sought for the purposes of delay. Indeed, Longmore and Buckner were served with the summons in this matter less than 30 days ago.

12. In accordance with Local Rule 7.1(a)(3), undersigned counsel certifies that counsel for Third-Party Defendants have unsuccessfully, but in good faith, conferred with Defendants' counsel prior to filing this motion, in an attempt to obtain an agreement on this matter without court action.

WHEREFORE, for the foregoing reasons, Screenya, Longmore, and Buckner respectfully request a ninety (90) day extension of the discovery schedule and trial deadline from the date of the Court's order on the Third-Party Defendants' Motion to Dismiss.

Dated: June 13, 2023

Respectfully submitted,

/s/ Mallory M. Cooney

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed the foregoing with the Clerk of Court by using the CM/ECF system, which will send a notice of electronic filing to all counsel or parties of record on this 13th day of June 2023.

/s/ Mallory Cooney

Mallory Cooney